

EXHIBIT V

1

2 UNITED STATES DISTRICT COURT
3 FOR THE DISTRICT OF DELAWARE

4 WAYNE VAN SCOY, :
5 Plaintiff :
6 -vs- :
7 VAN SCOY DIAMOND MIND : # 05-108
8 OF DELAWARE, INC., ET AL, :
9 Defendants :

10 Valley Forge, Pennsylvania

11 October 5, 2005

12

13

14 Pretrial examination of LEW HILL,
15 taken on behalf of the Plaintiff at the
16 offices of PETOCK & PETOCK, 46 The
17 Commons at Valley Forge, Valley Forge,
18 Pennsylvania, on the above date, commencing
19 at 1:30 p.m., before Julie Zatuchni,
20 Registered Professional Reporter.

21

22 JULIE ZATUCHNI, RPR
23 202 Fairfax Court
Wayne, Pennsylvania 19087

24

EXHIBIT V

1

2 APPEARANCES:

3

PETOCK & PETOCK

BY: MICHAEL C. PETOCK and MICHAEL F.

4

PETOCK, ESQUIRES

46 The Commons at Valley Forge

5

Valley Forge, Pennsylvania 19482

6

Counsel for Plaintiff

7

FOX ROTHSCHILD

BY: CHARLES N. QUINN, ESQUIRE

8

2000 Market Street, 10th Floor

Philadelphia, Pennsylvania 19103

9

Counsel for Mr. Hill

10

ALSO PRESENT: KURT VAN SCOY

11

WAYNE VAN SCOY

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I N D E X

3 WITNESS

EXAMINATION

4 LEW HILL

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By MR. PETOCK
By MR. QUINN

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PLAINTIFF

9 EXHIBITS

MARKED

10

#40

Subpoena

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#41

Agreement

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2 (It is stipulated and agreed by and
3 between counsel for the respective parties
4 that the reading, signing, sealing,
5 certification and filing of the within
6 deposition be waived; and that all
7 objections, except as to the form of the
8 question, be reserved until the time of
9 trial.)

10 -----

11 LEW HILL,
12 was called as a witness and after having
13 been first sworn, according to law, was
14 examined and testified as follows:

15 EXAMINATION

16 BY MR. PETOCK:

17 Q. Good morning, Mr. Hill or good
18 afternoon, actually. My client is William
19 Van Scoy. William Van Scoy is the son of
20 Tommy Van Scoy, Senior, who I think you
21 knew. Wayne is a distributor for the mark
22 Van Scoy Diamond Mine.

23 Presently Wayne is involved in
24 litigation against a business in Delaware

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2 and its owners respecting the Van Scoy
3 Diamond Mine. The reason that we brought
4 you here today was to find out what
5 information you might know that might be
6 relevant to the present lawsuit, okay.
7 That being said, I'm going to ask you some
8 questions to find out what you might know,
9 okay?

10 A. Okay.

11 Q. You understand that you've taken
12 an oath to tell the truth today?

13 A. I do.

14 MICHAEL F. PETOCK: Before we
15 begin, I'd like to put on the record that
16 one of the defenses raised by Mr. Quinn in
17 this lawsuit is that the mark is generic
18 and therefore the mark is invalid and Mr.
19 Hill, as a part of the partnership, owns or
20 claims to own and I believe has produced an
21 agreement that says he owns, has exclusive
22 rights to the mark and we believe that is a
23 conflict of interest for Mr. Quinn to be
24 representing Mr. Hill in this deposition.

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2 MR. QUINN: I disagree. A) I
3 think that's a mischaracterization of the
4 agreement and B) I don't think there's any
5 conflict in interest and that will become
6 quite clear as the testimony comes
7 forward.

8 MR. PETOCK: I'd like to have
9 this first document marked as Plaintiff's
10 Exhibit 40.

11 (Whereupon, Subpoena marked
12 Plaintiff's Exhibit 40, for
13 identification.)

14 BY MR. PETOCK:

15 Q. Mr. Hill, do you recognize this
16 document that's been marked as Plaintiff's
17 Exhibit 40?

18 A. I do.

19 Q. This is a subpoena issued from
20 the United States District Court, the
21 Eastern District of Pennsylvania and this
22 is the reason that you're here today; is
23 that correct?

24 A. That's correct.

1

2 BY MR. PETOCK:

3 Q. Is Charlie representing you in
4 this matter?

5 A. Yes.

6 Q. Has anyone explained that Mr.
7 Quinn might have a conflict of interest in
8 his representation of you?

9 A. No.

10 Q. And you haven't waived any sort
11 of conflict?

12 A. No.

13 Q. I guess I should have asked you
14 this earlier, but can you please state your
15 full name?

16 A. Lew M. Hill, M as in Michael.

17 Q. What is your date of birth?

18 A. 1/13/1945.

19 Q. Where were you born?

20 A. In Reading, Pennsylvania.

21 Q. Where did you grow up?

22 A. Reading, Pennsylvania.

23 Q. Could you state what your
24 education background is?

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2 Street in Reading, Pennsylvania ever go by

3 any other name beside Van Scoy Diamond

4 Mine?

5 A. We changed the name to Van Scoy

6 Jewelers probably late '90s, but I don't

7 remember exactly.

8 Q. Were you operating under the name

9 Van Scoy Diamond Mine and Van Scoy Jewelers

10 at the same time?

11 A. Well, transitioned a little bit,

12 but we filed a fictitious filing and, you

13 know.

14 Q. To the best of your memory, it

15 was the late 1990's where you switched from

16 Van Scoy Diamond Mine to Van Scoy Jewelers?

17 A. Yes.

18 Q. Do you remember the reason why

19 you made that change?

20 A. Yes.

21 Q. What was that reason?

22 A. There were a lot of bankruptcies

23 occurring within the organization and it

24 was starting to cause problems for us

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2 Q. Where did you move it to?

3 A. We moved it to 2733 Paper Mill
4 Road in Wyomissing, Pennsylvania.

5 Q. When did that move occur?

6 A. April 1 of 2003.

7 Q. On April 1, 2003, you opened up
8 your store at 2733 Paper Mill Road in
9 Wyomissing, PA under what name?

10 A. Van Scoy Jewelers.

11 Q. Which was the same name you had
12 been previously operating your store in
13 Reading since approximately the late
14 1990's; correct?

15 A. Correct.

16 Q. Do you own the store in
17 Wyomissing?

18 A. It's leased as well.

19 Q. Are you incorporated?

20 A. No.

21 Q. For the business that you operate
22 under the mark Van Scoy Jewelry or
23 Jewelers?

24 A. Jewelers.

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2 Q. And again, you paid on a monthly
3 basis?

4 A. I'm not sure about that.

5 Q. What did that agreement give you
6 the right to do?

7 A. Operate a Van Scoy Diamond Mine
8 in Montgomery County.

9 Q. Then was all this written down in
10 the contract or was it oral?

11 A. There was a franchise document
12 that I mentioned earlier, but it was never
13 signed. We never completely agreed on all
14 the stipulations within it and it was never
15 signed, so it was a verbal agreement.

16 Q. In approximately 1993, whatever
17 agreement you had before with Tommy Van
18 Scoy, Senior changed; is that correct?

19 A. Correct.

20 Q. And whatever those changes were
21 is reflected in this Agreement that we've
22 marked as Plaintiff's Exhibit 41; is that
23 correct?

24 A. The method of operation, yes.

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2 Q. Could you describe to me what
3 those changes were as far as changes in the
4 method of operation?

5 A. Well primarily, the removal of
6 the obligation to pay an ongoing monthly
7 fee.

8 Q. What else?

9 A. Well, there were things in the
10 franchise agreement that had to do with
11 inspection and the like, which I'm
12 imagining those went away, as well.
13 Essentially it severed, I guess pretty much
14 severed the relationship from an
15 operational point of view.

16 Q. So, after this contract was
17 executed --

18 MR. QUINN: Objection to the
19 extent that it's not clear from what you
20 say this contract, what it is you're
21 referring to.

22 BY MR. PETOCK:

23 Q. After the Agreement that has been
24 marked as Plaintiff's 41 was executed

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2 between you and Tommy Van Scoy, Senior,
3 your relationship between him was severed;
4 is that correct?

5 A. That's true.

6 Q. Did the Agreement grant you the
7 exclusive rights to use the mark Van Scoy
8 Diamond Mine in a defined territory?

9 MR. QUINN: Objection. The
10 agreement speaks for itself.

11 MR. PETOCK: You may answer.

12 THE WITNESS: That was my
13 understanding.

14 MR. PETOCK: What territory was
15 that.

16 MR. QUINN: Objection, agreement
17 speaks for itself.

18 BY MR. PETOCK:

19 Q. You may answer?

20 A. Schuylkill, Berks and Montgomery
21 County.

22 Q. With respect, could you read
23 Section 4.1 of the Agreement that's been
24 marked as Plaintiff's Exhibit 41, please.

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2 understand the question.

3 BY MR. PETOCK:

4 Q. What don't you understand about
5 the question?

6 A. I'm not sure I know what a
7 licensee is, how it would be different from
8 having the rights to use the name versus
9 operating under a franchise agreement. It
10 would be my understanding we were no longer
11 a franchisee at that point.

12 Q. What was your understanding as to
13 the differences between you having been
14 granted the right to use the mark and how
15 it would have been under a franchisee?

16 MR. QUINN: Objection. There's
17 no time frame stated for what his
18 understanding was.

19 BY MR. PETOCK:

20 Q. At the time the execution was
21 granted?

22 A. Looking at it from different
23 points of view, I would not expect anything
24 from him at that point any longer, from one

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2 perspective.

3 Q. Any other respects, perspectives
4 as to why the differences between?

5 A. That he wouldn't be expecting
6 anything from me, payments, coming to
7 meetings or something like that.

8 Q. Could you look at Section 3.6,
9 please.

10 A. Okay.

11 Q. Could you read it out loud?

12 A. "Reading partnership shall
13 continue to conduct its retail jewelry
14 business using the same high standards of
15 integrity in dealing with the public and
16 continue to offer the same high quality
17 jewelry products and jewelry service and as
18 Reading Partnership has offered heretofore,
19 to the extent Reading Partnership can do so
20 and yet continue to meet the prices of its
21 competition".

22 Q. After the Agreement that's been
23 marked as Plaintiff's Exhibit 41 was
24 executed, did you continue to adhere to

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2 business; right?

3 A. He closed that store and opened
4 the new store under a different name.

5 Q. Do you know why he did that?

6 A. Not really.

7 Q. Do you have any idea?

8 A. No, looking for a new name. I
9 would suspect to increase business.

10 Q. To your knowledge, did Mark
11 Maurer abandon the name Van Scoy Diamond
12 Mine?

13 A. I don't know.

14 Q. Do you know if he still uses the
15 name, Van Scoy Diamond Mine?

16 A. Not to my knowledge.

17 Q. Was Mark Maurer a licensee of
18 Tommy Van Scoy, Senior, at one point?

19 A. To the best of my knowledge he
20 was, yes.

21 Q. Where did he own stores?

22 A. He owned stores in Lancaster and
23 Allentown and in Phillipsburg, York.

24 Q. York, also?

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2 measures means?

3 A. Yes.

4 Q. Other than that, though, you

5 understand it?

6 A. Yes.

7 Q. Your partner now, you mentioned

8 that you were partnered up with somebody,

9 James Sweeney?

10 A. Right.

11 Q. Is he still your partner?

12 A. No.

13 Q. Do you have any other partners?

14 A. No.

15 (Discussion off the record.)

16 MR. PETOCK: Just a quick --

17 (Brief recess taken.)

18 BY MR. PETOCK:

19 Q. Just want to make sure the store

20 you operate is Van Scoy Jewelers. Is that

21 the full name?

22 A. DBA Van Scoy Jewelers of

23 Wyomissing, Pennsylvania, but the name on

24 the sign is Van Scoy Jewelers.

1

2 Q. Getting back to Avalon Jewelers
3 again, was that the full name of that
4 store?

5 A. That's my understanding.

6 Q. Is there any store now operating
7 with the word Avalon in it, a jewelry
8 store?

9 A. Yes.

10 Q. Where is that?

11 A. It's the same store, changed the
12 name to Avalon, Maurer and Bash, I believe.

13 Q. Are you aware of any other stores
14 operating with the word, Van Scoy in it
15 besides your own?

16 A. I think Bob Cooke in
17 Greensborough, the last I heard it was Van
18 Scoy Diamond Jewelers.

19 Q. Anyone else?

20 A. Well, there's some other Van
21 Scoys. I think there's one up in
22 Scranton. I really don't know. There's
23 probably others still operating.

24 Q. This Agreement, P41, are you

EXHIBIT W

IN THE UNITED STATES DISTRICT COURT

THE DISTRICT OF DELAWARE

WAYNE VAN SCOY :
 :
 v. :
 :
 VAN SCOY DIAMOND :
 MINE OF DELAWARE, :
 INC., KURT VAN SCOY :
 AND DONNA VAN SCOY : NO. 05-108 (KAJ)

October 6, 2005

Oral deposition of MARK

MAURER, taken pursuant to notice, was
held at the law offices of Michael
Petock, 46 The Commons at Valley
Forge, 1220 Valley Forge Road, Valley
Forge, Pennsylvania, commencing at
1:50 p.m., on the above date, before
Sherry L. Stills, Court Reporter and
Notary Public for the Commonwealth of
Pennsylvania.

ESQUIRE DEPOSITION SERVICES
1880 John F. Kennedy Boulevard
15th Floor
Philadelphia, Pennsylvania 19103
(215) 988-9191

EXHIBIT W

ESQUIRE DEPOSITION SERVICES

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Page 2

Page 4

1 APPEARANCES:

2
3 LAW OFFICES OF MICHAEL PETOCK
4 BY: MICHAEL F. PETOCK, ESQUIRE
5 MICHAEL C. PETOCK, ESQUIRE
6 46 The Commons at Valley Forge
7 1220 Valley Forge Road
8 Valley Forge, Pennsylvania 19482
9 MFP@IPLaw-Petock.com
10 (610) 933-9300
11 Representing the Plaintiff
12
13
14

15 FOX ROTHSCHILD
16 BY: CHARLES N. QUINN, ESQUIRE
17 2000 Market Street
18 10th Floor
19 Philadelphia, Pennsylvania 19103
20 (215) 299-2000
21 Representing Mark Maurer
22
23
24

15 ALSO PRESENT:

16 Wayne Van Scoy
17 Kurt Van Scoy
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2 DEPOSITION SUPPORT INDEX

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Direction to Witness Not to Answer

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Page Line Page Line Page Line

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None

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10 Request for Production of Documents

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Page Line Page Line Page Line

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None

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14

15 Stipulations

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Page Line Page Line Page Line

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5 6-10

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20 Question Marked

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Page Line Page Line Page Line

22

None

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Page 3

Page 5

1 INDEX

2

3 Testimony of: MARK MAURER

4 BY MR. MICHAEL C. PETOCK 7

5

6

7 EXHIBITS

8

9 NO. DESCRIPTION PAGE

10 P-42 Subpoena 10

11 P-43 Agreement 38

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3 MARK MAURER, after having
4 been duly sworn, was examined and
5 testified as follows:
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9 MR. MICHAEL C. PETOCK: All
10 objections are reserved except for
11 form of the question.

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14 MR. QUINN: That's agreeable
15 to us.

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18 I'd like to say before we
19 start, so we avoid the kind of
20 argument that we had yesterday,
21 first of all, I'm here today
22 representing Mr. Maurer. We have
23 discussed the matter of my
24 representation of the defendants
in this matter. Mr. Maurer, and
you can ask him this, has waived,
to the extent there is any
conflict, and we don't believe
there is, but to the extent that
you may perceive there to be one,
Mr. Maurer waives it and you can

2 (Pages 2 to 5)

ESQUIRE DEPOSITION SERVICES

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Page 6	Page 8
<p>1 ask him that.</p> <p>2 Secondly, Mr. Maurer's</p> <p>3 subpoena asked for him to supply</p> <p>4 certain documents. We sent those</p> <p>5 documents to you earlier today and</p> <p>6 Bates numbered them just for</p> <p>7 purposes of identification. So,</p> <p>8 you have all of the documents that</p> <p>9 Mr. Maurer had that are responsive</p> <p>10 to the request that you made other</p> <p>11 than a letter that I sent to him</p> <p>12 that is in the nature of a</p> <p>13 privileged communication.</p> <p>14 MR. MICHAEL F. PETOCK: Are</p> <p>15 you also representing the</p> <p>16 defendants in this matter at this</p> <p>17 deposition?</p> <p>18 MR. QUINN: No.</p> <p>19 MR. MICHAEL F. PETOCK: You</p> <p>20 are not? Who is representing the</p> <p>21 defendants?</p> <p>22 MR. QUINN: I don't believe</p> <p>23 they have one today.</p> <p>24 MR. MICHAEL F. PETOCK: The</p>	<p>1 you Mark today?</p> <p>2 A. Sure. Sure. May I have</p> <p>3 your card? You have it already. I</p> <p>4 just wanted to --</p> <p>5 Q. My business card?</p> <p>6 A. Yes. No, you don't have</p> <p>7 to go downstairs to get it. I thought</p> <p>8 you had one laying there.</p> <p>9 Q. Actually, I don't have</p> <p>10 one.</p> <p>11 A. May I call you Michael?</p> <p>12 Q. Surely. My name is</p> <p>13 Michael Petock. This is Michael F.</p> <p>14 Petock. Are you familiar with the</p> <p>15 litigation that we are involved in</p> <p>16 here today at all?</p> <p>17 A. No, not really.</p> <p>18 Q. Just to give you a basic</p> <p>19 overview, it's litigation involving</p> <p>20 the use of a trademark and service</p> <p>21 mark Van Scoy Diamond Mine in the</p> <p>22 State of Delaware by the defendants</p> <p>23 who are Van Scoy Diamond Mine of</p> <p>24 Delaware, Incorporated and the owners</p>
Page 7	Page 9
<p>1 defendants received notice of this</p> <p>2 deposition; is that correct?</p> <p>3 MR. QUINN: That's correct.</p> <p>4 MR. MICHAEL F. PETOCK: And</p> <p>5 they have chosen voluntarily not</p> <p>6 to be represented at this</p> <p>7 deposition?</p> <p>8 MR. QUINN: That's correct.</p> <p>9 MR. MICHAEL F. PETOCK: And</p> <p>10 the deposition is, therefore,</p> <p>11 usable for any purpose?</p> <p>12 MR. QUINN: It's usable for</p> <p>13 whatever purpose by any party.</p> <p>14 MR. MICHAEL C. PETOCK:</p> <p>15 Ready?</p> <p>16 MR. MICHAEL F. PETOCK: Yes.</p> <p>17 - - -</p> <p>18 EXAMINATION</p> <p>19 - - -</p> <p>20 BY MR. MICHAEL C. PETOCK:</p> <p>21 Q. Okay. Good afternoon,</p> <p>22 Mr. Maurer.</p> <p>23 A. How are you?</p> <p>24 Q. Is it all right if I call</p>	<p>1 of that corporation, Kurt and Donna</p> <p>2 Van Scoy. And the plaintiff in that</p> <p>3 litigation is Wayne Van Scoy.</p> <p>4 You understand that you</p> <p>5 have taken an oath to tell the truth</p> <p>6 today; is that correct?</p> <p>7 A. That's correct.</p> <p>8 Q. Okay. Please state your</p> <p>9 name and address for the record.</p> <p>10 A. Mark Maurer, 830 Plaza</p> <p>11 Boulevard, Lancaster, Pennsylvania.</p> <p>12 Q. Is that your home address</p> <p>13 or your business address?</p> <p>14 A. My business address.</p> <p>15 Q. What is your home</p> <p>16 address?</p> <p>17 A. 1169 Oakmont Drive,</p> <p>18 Lancaster, Pennsylvania.</p> <p>19 Q. Are you here today in</p> <p>20 response to a subpoena?</p> <p>21 A. Yes, I am.</p> <p>22 MR. MICHAEL C. PETOCK: I</p> <p>23 would like to have this marked as</p> <p>24 Plaintiff's Exhibit 42, please.</p>

MARK MAURER

Page 10	Page 12
<p>1 P-42. 2 - - - 3 (Whereupon, the document was 4 marked as P-42 for 5 identification.) 6 - - - 7 BY MR. MICHAEL C. PETOCK: 8 Q. What's been marked as 9 Plaintiff's Exhibit 42 is the subpoena 10 that you just testified that you are 11 here in response to; is that correct? 12 A. That's correct. 13 Q. Okay. And the subpoena 14 commands you to bring all agreements 15 with Van Scoy Diamond Mines, Inc. 16 and/or Thomas Van Scoy, Sr., correct? 17 A. Yeah. 18 Q. Is it accurate what your 19 counsel represented that what you have 20 previously -- what your counsel 21 previously faxed to us this morning is 22 all the agreements that you have -- 23 A. Yes. 24 Q. -- between Thomas Van</p>	<p>1 Q. He didn't disclose to you 2 what the conflict was which he was 3 referring to? 4 A. Well, he's representing, 5 I think, one of the parties. 6 Q. Are you aware of the fact 7 that the defendants in this action who 8 are represented by Mr. Quinn are 9 attempting to invalidate the trademark 10 and service mark Van Scoy Diamond 11 Mine? 12 A. I am not aware of that. 13 Q. And they are also trying 14 to invalidate or hold the trademark 15 and the service mark Van Scoy Diamond 16 Mine invalid? 17 A. No, I am not aware of 18 that. 19 Q. Are you presently 20 operating any jewelry store under the 21 name Van Scoy Diamond Mine? 22 A. I'm operating two jewelry 23 stores, both of which were operating 24 under Van Scoy Diamond Mine, and I</p>
Page 11	Page 13
<p>1 Scoy, Sr. or Van Scoy Diamond Mine, 2 Incorporated? 3 A. Yes. 4 Q. There are no other 5 documents of that nature? 6 A. No. 7 Q. Is it also accurate that 8 you are represented by Charles Quinn? 9 A. Yes. 10 Q. And he has explained to 11 you any possible conflicts of interest 12 that may exist in his representation 13 of you? 14 A. Yes. 15 Q. Could you tell me what 16 conflicts that he has told you about? 17 A. Well, he just said -- you 18 know, he didn't really outline 19 conflicts of interest. He just said 20 there could be a conflict of interest, 21 and I said I don't have a problem with 22 that. I don't think that there really 23 are any. I'm really not a part of 24 this action whatever is going on.</p>	<p>1 maintain clients that have been sold 2 over the years under that name. 3 Q. Are you aware that if the 4 defendants are successful with their 5 defense and their counterclaims to 6 hold the trademark and service mark of 7 Van Scoy Diamond Mine invalid or 8 generic, any person would be within 9 their rights to open up a Van Scoy 10 Diamond Mine in your town? 11 MR. QUINN: Objection. 12 First of all, that 13 mischaracterizes the defendants' 14 position. The invalidation claim 15 is with respect to the federal 16 registrations of those Marks, and 17 it further mischaracterizes the 18 position in the hypothetical in 19 that it does not take account of 20 any common law rights that 21 Mr. Maurer might have developed 22 over the years through use of 23 those Marks. 24 So, I object to that</p>

MARK MAURER

Page 14	Page 16
<p>1 question on two bases. I think it 2 is misleading and deceptive. 3 MR. MICHAEL C. PETOCK: That 4 is strictly with respect to the 5 invalid defense. However, the 6 generic defense, that objection 7 would not hold, is that not true? 8 MR. QUINN: No, I don't 9 agree with that. I don't agree 10 with that characterization at all. 11 MR. MICHAEL F. PETOCK: 12 Answer the question. 13 BY MR. MICHAEL C. PETOCK: 14 Q. You can answer the 15 question. I will repeat it, if you 16 don't -- 17 A. I don't really totally 18 understand the question. 19 Q. Okay. Are you aware of a 20 fact that if the defendants are 21 successful with one or more of their 22 defenses, it may open the possibility 23 that any person would be within their 24 rights to open up a Van Scoy Diamond</p>	<p>1 A. We like people to believe 2 that. When they ask a little deeper, 3 they know it's a little township high 4 school outside of Reading. 5 Q. So, it's in Reading? 6 A. Yes. 7 Q. Did you work in high 8 school? 9 A. Yeah. Yes. 10 Q. What did you do? 11 A. Various jobs. I mean, 12 various jobs. My father died at 15. 13 I worked a lot. It would take a long 14 time to describe all of them. 15 Q. Okay. Your education 16 beyond high school, did you have any? 17 A. Yes. Millersville 18 University. 19 Q. Where is that located? 20 A. Lancaster, Pennsylvania. 21 Q. Okay. 22 A. Outside of Lancaster, 23 actually, in Millersville, but it's a 24 little suburb of Lancaster.</p>
Page 15	Page 17
<p>1 Mine directly across the street from 2 your business? 3 A. I am not aware of that. 4 MR. QUINN: Same 5 objection. 6 BY MR. MICHAEL C. PETOCK: 7 Q. And could you repeat your 8 answer? 9 A. I am not aware of that. 10 Q. Okay. Mark, where were 11 you born? 12 And you -- did you waive 13 the conflict? 14 A. Yes, I did. 15 Q. Where were you born? 16 A. Reading, Pennsylvania. 17 Q. Where did you grow up? 18 A. Reading, Pennsylvania. 19 Q. Where did you go to high 20 school? 21 A. Exeter High School. 22 Q. I have heard of Exeter 23 before. That's up in New England; is 24 that correct?</p>	<p>1 Q. Do you have any education 2 beyond Millersville? 3 A. No. 4 Q. Did you receive a degree 5 from Millersville? 6 A. No. 7 Q. How many years did you 8 attend Millersville? 9 A. Three and a half. 10 Q. Were you employed during 11 college? 12 A. Yes. 13 Q. What did you do during 14 college? 15 A. I worked at various 16 construction jobs. I worked for The 17 Boys and Girls Club in Lancaster. I 18 worked for the University doing jobs. 19 Q. What year did you 20 graduate or did you stop attending 21 Millersville? 22 A. In 1972. 23 Q. Why didn't you get your 24 degree from Millersville?</p>

5 (Pages 14 to 17)

MARK MAURER

Page 42	Page 44
<p>1 Mark?</p> <p>2 A. No, I did not.</p> <p>3 Q. Were you aware that the</p> <p>4 Wilkes-Barre store was forced to</p> <p>5 change its name at some point?</p> <p>6 A. No, I was not.</p> <p>7 Q. Are you familiar with</p> <p>8 what's been marked as Plaintiff's</p> <p>9 Exhibit 43?</p> <p>10 A. Yes.</p> <p>11 Q. What is that?</p> <p>12 A. It looks like the</p> <p>13 agreement that was made with Thomas</p> <p>14 Van Scoy, Sr. to purchase the</p> <p>15 permanent rights to our areas and stop</p> <p>16 paying the monthly fee and pay him a</p> <p>17 lump sum amount.</p> <p>18 Q. Is it that agreement?</p> <p>19 A. Yes.</p> <p>20 Q. This agreement granted</p> <p>21 you the exclusive right to use and to</p> <p>22 trade under the Mark in the defined</p> <p>23 territory; is that correct?</p> <p>24 A. Yes.</p>	<p>1 could really answer that question.</p> <p>2 Q. Why can't you answer that</p> <p>3 question?</p> <p>4 A. Well, you know, there's a</p> <p>5 whole bunch of what ifs. What could</p> <p>6 have been if it would have been, you</p> <p>7 know, all that it was promised to be</p> <p>8 versus what is it really turned out to</p> <p>9 be. But, you know, would I be in the</p> <p>10 jewelry business without it today?</p> <p>11 Probably not. So, I don't really --</p> <p>12 you know, I could answer that question</p> <p>13 both ways.</p> <p>14 Q. Are you resentful of</p> <p>15 Tommy Van Scoy, Sr.?</p> <p>16 A. Yes.</p> <p>17 Q. Do you hold a grudge</p> <p>18 against him?</p> <p>19 A. No.</p> <p>20 Q. Despite your contentions</p> <p>21 as to there not being any</p> <p>22 relationship, even before you executed</p> <p>23 this agreement, as a matter of what</p> <p>24 was put in writing, this agreement</p>
Page 43	Page 45
<p>1 Q. And you paid \$25,000 and</p> <p>2 \$25,000 worth of diamonds for that</p> <p>3 exclusive right; is that correct?</p> <p>4 A. That's correct.</p> <p>5 Q. After this agreement was</p> <p>6 executed, you no longer were required</p> <p>7 to pay the monthly royalty payments;</p> <p>8 is that correct?</p> <p>9 A. That's correct.</p> <p>10 Q. Did this agreement change</p> <p>11 your relationship with respect to</p> <p>12 Tommy Van Scoy, Sr. or Van Scoy</p> <p>13 Diamond Mine, Inc. in any way?</p> <p>14 A. No, because, at that</p> <p>15 point, we really didn't have much of a</p> <p>16 relationship. That's why we got to</p> <p>17 that point. He was collecting a fee</p> <p>18 for doing nothing.</p> <p>19 Q. Looking back on the</p> <p>20 amount you paid for the rights to use</p> <p>21 the Mark, do you think it was a good</p> <p>22 business decision?</p> <p>23 A. Well, there is no way to</p> <p>24 really judge that. I don't think I</p>	<p>1 changed your relationship; is that</p> <p>2 correct?</p> <p>3 A. It changed relationship</p> <p>4 that I didn't have to pay the money --</p> <p>5 continue to pay the monthly money,</p> <p>6 that's correct.</p> <p>7 Q. Did it also change the</p> <p>8 relationship in the sense that --</p> <p>9 well, let me have you take a look at a</p> <p>10 specific section. Section seven on</p> <p>11 page five.</p> <p>12 A. Okay.</p> <p>13 Q. Is it true that this</p> <p>14 agreement changed your relationship</p> <p>15 with Tommy Van Scoy, Sr. such that he</p> <p>16 no longer was obligated to provide any</p> <p>17 type of advertising support or</p> <p>18 promotional assistance for you?</p> <p>19 A. Well, yeah, I guess that</p> <p>20 maybe it does, in that regard. It</p> <p>21 certainly says that there, but he</p> <p>22 hadn't done that for years beforehand.</p> <p>23 I mean, we were doing everything. He</p> <p>24 was just getting the money and going</p>

MARK MAURER

Page 46	Page 48
<p>1 to the casinos.</p> <p>2 Q. By the way, when I refer</p> <p>3 to you, I'm referring to --</p> <p>4 A. Talking about my company.</p> <p>5 Q. -- International.</p> <p>6 A. I understand.</p> <p>7 Q. Do you know how you would</p> <p>8 characterize what this agreement</p> <p>9 granted you?</p> <p>10 A. Yes.</p> <p>11 Q. What?</p> <p>12 A. It grants me the</p> <p>13 exclusive right to operate a jewelry</p> <p>14 store and owning the name Van Scoy</p> <p>15 Diamond Mine in that area.</p> <p>16 Q. Okay.</p> <p>17 A. In my areas.</p> <p>18 Q. Okay. After this</p> <p>19 agreement was executed, would you say</p> <p>20 that you in all ways severed your</p> <p>21 relationship with Tommy Van Scoy, Sr.,</p> <p>22 any sort of business relationship that</p> <p>23 may or may not have been ongoing?</p> <p>24 A. No, I don't think that.</p>	<p>1 to sit here and read it and then</p> <p>2 answer that question, if I could. Do</p> <p>3 you want me to?</p> <p>4 MR. MICHAEL F. PETOCK:</p> <p>5 Why don't you read it. Go ahead</p> <p>6 and read it.</p> <p>7 MR. MICHAEL C. PETOCK:</p> <p>8 Sure.</p> <p>9 MR. MICHAEL F. PETOCK: You</p> <p>10 can go off the record.</p> <p>11 - - -</p> <p>12 (Whereupon, there was an</p> <p>13 off-the-record discussion.)</p> <p>14 - - -</p> <p>15 BY MR. MICHAEL C. PETOCK:</p> <p>16 Q. Back on the record.</p> <p>17 You have had time to</p> <p>18 review the entire agreement?</p> <p>19 A. Right.</p> <p>20 Q. Okay. And do you believe</p> <p>21 that you are bound by all the</p> <p>22 provisions of the agreement?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. Could you look at</p>
Page 47	Page 49
<p>1 I mean, this agreement also guaranteed</p> <p>2 that he was not going to or anybody</p> <p>3 was not going to come into my area and</p> <p>4 compete with me, based on the half</p> <p>5 million dollars plus that I had paid</p> <p>6 him. I mean, it was at a point in</p> <p>7 time where he accepted the money,</p> <p>8 understood he really didn't do</p> <p>9 anything, and was, I think, grateful</p> <p>10 to get the money, at that point.</p> <p>11 Q. Are you still bound by</p> <p>12 this agreement, in your opinion?</p> <p>13 A. Yes. I still think that</p> <p>14 I have the rights to my areas.</p> <p>15 Q. And, as a whole, you are</p> <p>16 still bound by the agreement, correct?</p> <p>17 A. I don't know -- what do</p> <p>18 you mean as a whole versus --</p> <p>19 Q. Well, you said that you</p> <p>20 still have the rights to your area,</p> <p>21 but there's a lot of provisions. So,</p> <p>22 I mean, if that part is good, is the</p> <p>23 rest of it good, too?</p> <p>24 A. I would reserve the right</p>	<p>1 section 3.6 again, please.</p> <p>2 A. Yes.</p> <p>3 Q. Could you read that</p> <p>4 section aloud, please.</p> <p>5 A. Sure.</p> <p>6 International shall</p> <p>7 continue to conduct its retail jewelry</p> <p>8 business using the same high standards</p> <p>9 of integrity in dealing with the</p> <p>10 public and continue to offer the same</p> <p>11 high quality jewelry products and</p> <p>12 jewelry service as International has</p> <p>13 offered heretofore, to the extent</p> <p>14 International can do so and yet</p> <p>15 continue to meet the prices of its</p> <p>16 competition.</p> <p>17 Q. Have you continued to do</p> <p>18 so?</p> <p>19 A. Absolutely.</p> <p>20 Q. Do you agree that, under</p> <p>21 the agreement, there was a joint</p> <p>22 intent to take reasonable measures to</p> <p>23 protect the Mark and to maintain its</p> <p>24 enforceability?</p>

Page 66

INSTRUCTIONS TO WITNESS

Please read your deposition over carefully and make any necessary corrections. You should state the reason in the appropriate space on the errata sheet for any corrections that are made.

After doing so, please sign the errata sheet and date it.

You are signing same subject to the changes you have noted on the errata sheet, which will be attached to your deposition.

It is imperative that you return the original errata sheet to the deposing attorney within thirty (30) days of receipt of the deposition transcript by you. If you fail to do so, the deposition transcript may be deemed to be accurate and may be used in court.

Page 67

ERRATA

PAGE LINE CHANGE

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ACKNOWLEDGMENT OF DEPONENT

I, _____, do hereby certify that I have read the foregoing pages, 1 - 64, and that the same is a correct transcription of the answers given by me to the questions therein propounded, except for the corrections or changes in form or substance, if any, noted in the attached Errata Sheet.

MARK MAURER DATE

Subscribed and sworn to before me this

_____ day of _____, 20____.

My commission expires: _____

Notary Public

Page 69

LAWYER'S NOTES
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18 (Pages 66 to 69)

ESQUIRE DEPOSITION SERVICES

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EXHIBIT X

Main Identity

From: "Quinn, Charles N." <CQuinn@foxrothschild.com>
To: <MFP@IPLaw-Petock.com>
Sent: Saturday, January 15, 2005 3:36 PM
Subject: Van Scoy Diamond Mine

This letter is also being sent via facsimile and via surface mail.

Charles N. Quinn
Direct Dial: (215) 299-2135
Internet Address: cquinn@foxrothschild.com

January 15, 2005

Via facsimile to: 610-933-9300 and via e-mail.

Michael F. Petock, Esq.
46 The Commons at Valley Forge
1220 Valley Forge Road
Post Office Box 856
Valley Forge, PA., 19482-0856

Re: "Van Scoy Diamond Mine"--U.S. 1,140,958 and 1,140,711
Our ref: 94214.2001; Your ref: 443-12

Dear Mike:

In accordance with our telephone discussion of this past Thursday, 13 January, I want to confirm that we were retained this week to represent Mr. Kurt Van Scoy with respect to the issues surrounding the mark "Van Scoy Diamond Mine" as raised in your letter of 18 November 2004 to our client.

As I mentioned when we spoke and as I am sure you can appreciate, it is going to take me a little time to investigate the facts in this situation, to obtain the file wrappers of the registrations in question and to learn more about our client's view of the allegations set forth in your letter of 18 November in order to respond to that letter and the demands you have made therein.

I have targeted the week of 31 January for furnishing you with our client's response to your letter of 18 November.

Very truly yours,

Charles N. Quinn

EXHIBIT X

12/13/2005

CNQ:cnq

cc: Mr. Kurt Van Scoy

Charles N. Quinn
Fox Rothschild LLP
2000 Market Street, 10th Floor
Philadelphia, PA., 19103-3291, U.S.A.

215-299-2135
215-299-2150 (fax)
cquinn@frof.com

Main Identity

From: "Quinn, Charles N." <CQuinn@foxrothschild.com>
To: <MFP@IPLaw-Petock.com>
Cc: <vkurts@comcast.net>
Sent: Friday, February 04, 2005 5:36 PM
Subject: Van Scoy Matter

Mike: This letter is additionally being sent to you this evening via facsimile.

Charles N. Quinn
Direct Dial: (215) 299-2135
Internet Address: cquinn@foxrothschild.com

February 4, 2005

VIA FACSIMILE (610) 933-9300
AND VIA E-MAIL

Michael F. Petock, Esq.
46 The Commons at Valley Forge
1220 Valley Forge Road
Post Office Box 856
Valley Forge, PA., 19482-0856

Re: "Van Scoy Diamond Mine"--U.S. 1,140,958 and 1,140,711
Our ref: 94214.2001; Your ref: 443-12

Dear Mike:

Further to my letter of 15 January 2005, I need at least an additional week to address this matter and respond to the demands set forth in your letter of 18 November 2004. Some personal health problems have hindered my ability to address this situation. I hope to have our complete response to you one week from today.

Regards,

Very truly yours,

Charles N. Quinn

CNQ/ryb

cc: Mr. Kurt Van Scoy

Charles N. Quinn
Fox Rothschild LLP

12/13/2005

2000 Market Street, 10th Floor
Philadelphia, PA., 19103-3291, U.S.A.

215-299-2135
215-299-2150 (fax)
cquinn@frof.com

ATTENTION

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Thank you...

EXHIBIT Y

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

* * *

WAYNE VAN SCOY

:

:

vs.

: C.A. NO. 05-108-KAJ

:

VAN SCOY DIAMOND MINE OF

:

DELAWARE, INC., KURT VAN SCOY :

and DONNA VAN SCOY

:

* * *

AUGUST 17, 2005

* * *

PORTIONS OF THIS TRANSCRIPT CONTAIN CONFIDENTIAL
INFORMATION

* * *

Videotape deposition of WAYNE VAN SCOY,
taken pursuant to notice, was held at the law
offices of FOX, ROTHSCHILD, O'BRIEN & FRANKEL, LLP,
2000 Market Street, 10th Floor, Philadelphia,
Pennsylvania 19103-3291, beginning at 10:11 a.m.,
before McKinley Wise, a Registered Professional
Reporter and an approved Reporter of the United
States District Court.

ESQUIRE DEPOSITION SERVICES

1880 John F. Kennedy Boulevard

15th Floor

Philadelphia, Pennsylvania 19103

(215) 988-9191

RECEIVED

SEP 02 2005

MICHAEL F. PETO

1 off the record.)

2 * * *

3 (Whereupon, Exhibit D-9 was marked
4 for identification.)

5 * * *

6 THE VIDEOGRAPHER: Back on the
7 record at 3:01.

8 BY MR. QUINN:

9 Q. Mr. Van Scoy, we've placed in front
10 of you a document that's been marked as
11 Defendant's Exhibit 9. Do you recognize that
12 document?

13 A. Okay. I think I got it.

14 Q. Do you know what this document is?

15 A. Talks about the bankruptcy and the
16 name and stuff.

17 Q. Do you know who prepared it?

18 A. No, I don't.

19 Q. Do you know why it was prepared?

20 A. Not exactly.

21 Q. Do you know when --

22 A. When. I was going to say when was
23 this?

24 Q. -- it was prepared?

WAYNE VAN SCOY - 8/17/05

1 A. '01. Might have been the settlement
2 thing through the bankruptcy. I don't remember
3 for sure.

4 Q. It bears your signature, does it
5 not?

6 A. Correct. Yes.

7 Q. Is this document true and correct,
8 to the best of your knowledge?

9 A. I'd have to have an attorney look at
10 it again to tell me if it is for sure.

11 Q. Did you believe it was correct when
12 you signed it?

13 A. I believe, yes.

14 Q. Was Mr. Petock representing you at
15 that time?

16 A. Probably.

17 Q. Is -- is your answer yes or you're
18 not sure?

19 A. My parents went through a bankruptcy
20 and we were just going through so much. So I
21 probably had some counsel then, so I assume it's
22 correct.

23 Q. But you don't know who that was?

24 A. No, not offhand. Would you have

**MEMORANDUM RE: TRANSFER OF TRADEMARK AND
SERVICE MARK, REGISTRATIONS, GOOD WILL AND
RIGHT TO RECOVER FOR PAST INFRINGEMENT**

This Memorandum is intended to be attached to the Order of the United States Bankruptcy Court for the Middle District of Pennsylvania dated January 4, 2001 in the matter of in re: Thomas Van Scoy, Debtor.

The attached Order of the Court reflects that all right, title and interest in the mark "VAN SCOY DIAMOND MINE" became the sole and exclusive property of Wayne Van Scoy for good and valuable consideration including a payment of \$45,000.00 paid by Wayne Van Scoy. This included the good will of the business associated with the marks, the registrations covering the marks, and the right to recover for past infringement.

More specifically, Wayne Van Scoy acquired:

1. Trademark Registration No. 1,140,711 for the mark "VAN SCOY DIAMOND MINE" for jewelry and precious stone which was originally issued on October 21, 1980, along with the mark covered by said registration, the good will of the business associated with the mark and the right to recover for past infringement; and
2. Service Mark Registration No. 1,140,958 for the mark "VAN SCOY DIAMOND MINE" for rendering of technical aid and assistance in the establishment and/or operation of retail jewelry stores and for retail jewelry store services which was originally issued on October 28, 1980, along with the mark covered by said registration, the good will of the business associated with the mark and the right to recover for past infringement.

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**MEMORANDUM RE: TRANSFER OF TRADEMARK AND
SERVICE MARK, REGISTRATIONS, GOOD WILL AND
RIGHT TO RECOVER FOR PAST INFRINGEMENT**

This Memorandum is intended to be attached to the Order of the United States Bankruptcy Court for the Middle District of Pennsylvania dated January 4, 2001 in the matter of in re: Thomas Van Scoy, Debtor.

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1. Trademark Registration No. 1,140,711 for the mark "VAN SCOY DIAMOND MINE" for jewelry and precious stone which was originally issued on October 21, 1980, along with the mark covered by said registration, the good will of the business associated with the mark and the right to recover for past infringement; and
2. Service Mark Registration No. 1,140,958 for the mark "VAN SCOY DIAMOND MINE" for rendering of technical aid and assistance in the establishment and/or operation of retail jewelry stores and for retail jewelry store services which was originally issued on October 28, 1980, along with the mark covered by said registration, the good will of the business associated with the mark and the right to recover for past infringement.

The marks, associated good will and registrations became subject to the Bankruptcy Proceeding in the name of Thomas Van Scoy as Van Scoy Diamond Mines, Inc., the corporation named in the aforementioned registrations as the owner, was an asset of Thomas Van Scoy and was drawn into the Bankruptcy Proceeding along with the registrations, marks and associated good will. Accordingly, the Bankruptcy Court had jurisdiction over the previous owner named in the registrations (Van Scoy Diamond Mines, Inc.), the marks, associated good will and registrations as well as the rights to recover for past infringement. All of the rights and associated good will were transferred to Wayne Van Scoy by the Order of January 4, 2001 of the United States Bankruptcy Court of the Middle District of Pennsylvania.

The Undersigned declares: that all statements made herein of his own knowledge are true and that all statements made on information and belief are believed to be true; and further that the statements were made with the knowledge that willful false statements and the like so made punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the registrations identified above.

4-13-01

Date

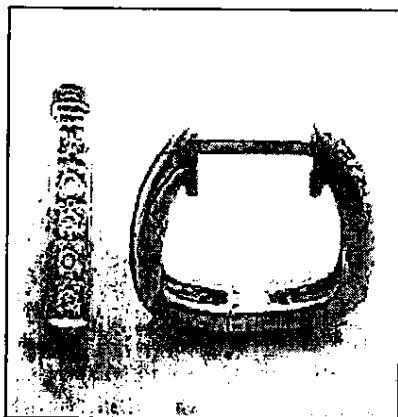
Wayne Van Scoy
Wayne Van Scoy

EXHIBIT Z



Get More Info

Bracelets & Bangles
Colored Stone
Diamond
Colored Stone
Rings
Bands
Diamond Rings
Anniversary
Mountings
Wedding Bands
Earrings
Colored Stone
Diamond
Pendants/Necklaces



Price: \$150.00
Carat Weight (approx.): 0.07
Style Number: 2M94D
Description: Round
Metal: 14kt w/g

Contact us to purchase this product or to have your questions answered.

Name:

Email:

Phone:

Comment / Questions:

EXHIBIT Z

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